



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

ACCIDENT & INJURY CHIROPRACTIC

Respondent Name

CHURCH MUTUAL INSURANCE CO

MFDR Tracking Number

M4-10-4382-01

Carrier's Austin Representative

Box Number 17

MFDR Date Received

JUNE 15, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "[Claimant] completed a DWC 41, naming Dr. Rayshell as his treating doctor. The DWC is showing Dr. Rayshell as [Claimant's] treating doctor, therefore DOS 4/6/10 is reimbursable."

Amount in Dispute: \$254.22

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "As shown in the attached Explanation of Benefits, the Requestor was denied reimbursement because he was not an authorized treating physician. The Dallas Field Office of the Texas Department of Insurance, Division of Worker's Compensation customer service confirmed that the Claimant's treating doctor is Adam Alexander Rodriguez. No DWC-153s had been filed; thus the only treating doctor the Claimant has had is Dr. Rodriguez. Therefore, the bills for Requestor have been appropriately denied."

Response Submitted by: Downs Stanford, P.C.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 6, 2010	CPT Code 99203 Office or other outpatient visit for the evaluation and management of a new patient	\$139.63	\$139.63
	CPT Code 72070 Radiologic examination, spine; thoracic, 2 views	\$45.68	\$45.68
	CPT Code 72100 Radiologic examination, spine, lumbosacral; 2 or 3 views	\$53.91	\$53.91
	CPT Code 99080-73 Work Status Report	\$15.00	\$15.00
TOTAL		\$254.22	\$254.22

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §126.9, effective July 1, 1993, provides for claimant's to choose the treating doctor.
3. 28 Texas Administrative Code §134.203 effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets out medical fee guidelines for workers' compensation specific services.
5. 28 Texas Administrative Code §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 38-Provider is not an authorized treating physician.
 - 193-Original payment decision is being maintained.
 - 97A-Provider appeal.
 - 73-Work status report.

Issues

1. Was Dr. Rayshell the injured employee's initial choice of treating doctor?
2. Is the requestor entitled to reimbursement for CPT Code 99203, 72070, 72100?
3. Is the requestor entitled to reimbursement for CPT Code 99080-73?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "38-Provider is not an authorized treating physician."

28 Texas Administrative Code §126.9(c)(2) states "The first doctor who provides health care to an injured employee shall be known as the injured employee's initial choice of treating doctor. The following do not constitute an initial choice of treating doctor: (2) a doctor recommended by the carrier or employer, unless the injured employee continues, without good cause as determined by the commission, to receive treatment from the doctor for a period of more than 60 days."

A review of the submitted documentation finds the following:

- The claimant sustained a compensable injury on April 5, 2010.
- The Employee's Claim for Compensation for a Work-Related Injury or Occupational Disease (DWC Form 041), completed on April 5, 2010 lists Dr. Mark Rayshell as the treating doctor.
- The employer referred the claimant to Dr. Rayshell.
- The disputed date of service is April 6, 2010.
- The claimant chose Dr. Adam Rodriguez as treating doctor. No documentation was submitted to indicate when Dr. Rodriguez was chosen as treating doctor.

The Division concludes that Dr. Rayshell was not the injured employee's initial choice of treating doctor per 28 Texas Administrative Code §126.9(c)(2). However, Dr. Rayshell was the first provider that treated the claimant and reimbursement is due for his services.

2. 28 Texas Administrative Code §134.203(b) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers..."

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division

conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007.”

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2010 DWC conversion factor for this service is 54.32.

The Medicare Conversion Factor is 36.8729

Review of Box 32 on the CMS-1500 the services were rendered in Dallas, Texas; therefore, the Medicare participating amount is based upon the locality of “Dallas, Texas”.

Code	Medicare Participating Amount	MAR	Total Paid	Total Due
99203	\$98.68	\$145.37, requestor is seeking \$139.63	\$0.00	\$139.63
72070	\$32.28	\$47.55, requestor is seeking \$45.68	\$0.00	\$45.68
72100	\$38.10	\$56.13, requestor is seeking \$53.91	\$0.00	\$53.91

3. CPT code 99080-73 is defined as “Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form.”

28 Texas Administrative Code §134.204 (l) states “The following shall apply to Work Status Reports. When billing for a Work Status Report that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section, refer to §129.5 of this title (relating to Work Status Reports).”

28 Texas Administrative Code §129.5(i)(1) states “Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code "99080" with modifier "73" shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section.”

28 Texas Administrative Code §129.5 (d)(1) states “The doctor shall file the Work Status Report: (1) after the initial examination of the employee, regardless of the employee's work status.”

Because this was the initial work status, reimbursement of \$15.00 is recommended per 28 Texas Administrative Code §129.5(i)(1). The respondent paid \$0.00. The difference between amount due and paid is \$15.00. As a result, \$15.00 is recommended for additional reimbursement.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$254.22.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$254.22 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	04/11/2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.